

**LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 6027

BILL NUMBER: SB 26

NOTE PREPARED: Oct 13, 2007

BILL AMENDED:

SUBJECT: Smoke Detectors in Rental Properties.

FIRST AUTHOR: Sen. Jackman

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: X GENERAL
X DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: The bill makes it a Class B infraction if a landlord fails to: (1) properly install a smoke detector at the time a tenant moves in; or (2) repair an inoperative smoke detector within seven days of receiving notice of the need for repair.

It increases the penalty to a Class A infraction for a repeat violator.

It also makes the offense a Class D felony if a fire occurs on the rental premises causing bodily injury or loss of life and the injury or loss of life could have been avoided by an operable smoke detector.

The bill makes it a Class D felony for a tenant to knowingly or intentionally fail to replace smoke detector batteries or report a defective or inoperable smoke detector to the landlord under certain circumstances.

It permits a fire department to inspect a private dwelling upon the request of the owner or primary lessee who resides in the dwelling.

Effective Date: July 1, 2008.

Explanation of State Expenditures: *Summary* - The bill could increase the revenues from fine penalties for infractions by enhancing penalties related to smoke detectors in dwellings. It could also increase the costs of incarceration by establishing two Class D felonies.

Class D Felony: There are no data available to indicate how many landlords would be convicted of failing to install or maintain a smoke detector and a fire occurs causing bodily injury or loss of life. Also, there are

no data available to indicate how many tenants would be convicted of knowingly or intentionally failing to replace batteries in or report a defective or inoperable smoke detector. Both of these offenses would be punishable by a Class D felony.

A Class D felony is punishable by a prison term ranging from six months to three years or reduction to Class A misdemeanor, depending upon mitigating and aggravating circumstances. The average expenditure to house an adult offender was \$19,185 in FY 2007. (This does not include the cost of new construction.) If offenders can be housed in existing facilities with no additional staff, the average cost for medical care, food, and clothing is approximately \$1,825 annually, or \$5 daily, per prisoner. The estimated average cost of housing a juvenile in a state juvenile facility was \$63,138. The average length of stay in Department of Correction (DOC) facilities for all Class D felony offenders is approximately ten months.

Explanation of State Revenues: *Infractions:* Under current law, a dwelling owner, manager, or rental agent must install one functional smoke detector outside of each sleeping area and on each additional story of the dwelling. Replacement must occur within seven days and a person may not tamper with or remove a smoke detector. Violation of these requirements is a Class D infraction. Under the bill the penalty would increase to a Class B infraction or a Class A infraction for repeat offenders.

Revenue to the state General Fund could increase if an infraction is changed from Class D to Class B or Class A. The maximum judgment for a Class D infraction is \$25, while the maximum judgment for a Class B infraction is \$1,000, and the maximum penalty for a Class A infraction is \$10,000. Proceeds from infraction judgments are deposited in the state General Fund. No additional fee revenue would be expected since the court fees are \$70 for both infraction types.

Class D Felony: If additional court cases occur and fines are collected, revenue to both the Common School Fund and the state General Fund would increase. The maximum fine for a Class D felony is \$10,000. Criminal fines are deposited in the Common School Fund.

If the case is filed in a circuit, superior, or county court, 70% of the \$120 criminal costs fee that is assessed and collected when a guilty verdict is entered would be deposited in the state General Fund. If the case is filed in a city or town court, 55% of the fee would be deposited in the state General Fund. In addition, some or all of the judicial salaries fee (\$15), the public defense administration fee (\$3), the court administration fee (\$2), the judicial insurance adjustment fee (\$1), and the DNA sample processing fee (\$1) are deposited into the state General Fund.

Explanation of Local Expenditures: *Class D Felony:* If more defendants are detained in county jails prior to their court hearings, local expenditures for jail operations may increase. The average cost per day is approximately \$44.

Smoke Detector Inspection: The bill allows fire departments to inspect private dwellings for compliance with smoke detector requirements at the request of the landlord or the primary lessee. The section does not include fees for inspections.

Explanation of Local Revenues: *Class D Felony:* If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from the following sources: The county general fund would receive 27% of the \$120 criminal costs fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of the criminal costs fee. In addition, several additional fees may be collected at the

discretion of the judge and depending upon the particular type of criminal case.

Infractions: No additional fee revenue would be expected since the court fees are \$70 for both infraction types.

State Agencies Affected: Department of Correction.

Local Agencies Affected: Trial courts, local law enforcement agencies, local fire departments.

Information Sources: Indiana Sheriffs' Association, Department of Correction.

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